



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,880	06/20/2001	Brian J. Stark	087781/9002-02	6918

23409 7590 08/15/2003

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/886,880

Applicant(s)
BRIAN J. STARK ET AL.

Examiner
YVONNE M. HORTON

Art Unit
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 20, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 11-13 is/are allowed.
- 6) ☒ Claim(s) 6, 7, 9, and 10 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 26, 2002 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 7 6) ☐ Other:

Art Unit: 3635

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: In claim 10, the phrase "includes a for providing access" is incomplete. Includes a what, for providing access?
Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 is very confusing in that it appears to incorporate method steps that were not made apparent in the independent claim. For instance, the steps of "providing a housing portion". Clarification is required.

4. Claim 10 recites the limitation "the providing second housing portion" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 10 recites the limitation "the second opening" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3635

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 6,7,9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,147,051 to BIRR et al. BIRR et al. discloses the use of an apparatus for permitting sanitary egress including a mounting member (the wall) having a passage (a recess), column 2, lines 38-39; a dispenser (144,148) mounted in the mounting member (the wall) and having a first housing portion (34,152,156) to contain a supply of sheets (146,150); and a disposal assembly (136) having a second housing (58) define a chamber (D), see the marked attachment. Regarding claim 7, the dispenser (144,148) ad disposal (136) are mounted on the same side of the mounting member (the wall). In reference to claim 9, the first housing portion includes a removable top (152,156), column 4, line 43 and lines 47-48. Regarding claim 10, the second housing (58) provides access to the chamber (d) or the second opening (116).

Art Unit: 3635

Allowable Subject Matter

8. Claims 1-5 and 11-13 are allowed.

9. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach the use of an apparatus including a dispenser portion disposed on one side of a support structure and a disposal portion disposed on an opposing side of the support structure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



August 11, 2003

Lachner

176,299

Sept. 1, 1964

R. T. BIRR ETAL

3,147,051

CABINET FOR TOWEL DISPENSERS

Filed Feb. 28, 1962

3 Sheets-Sheet 1

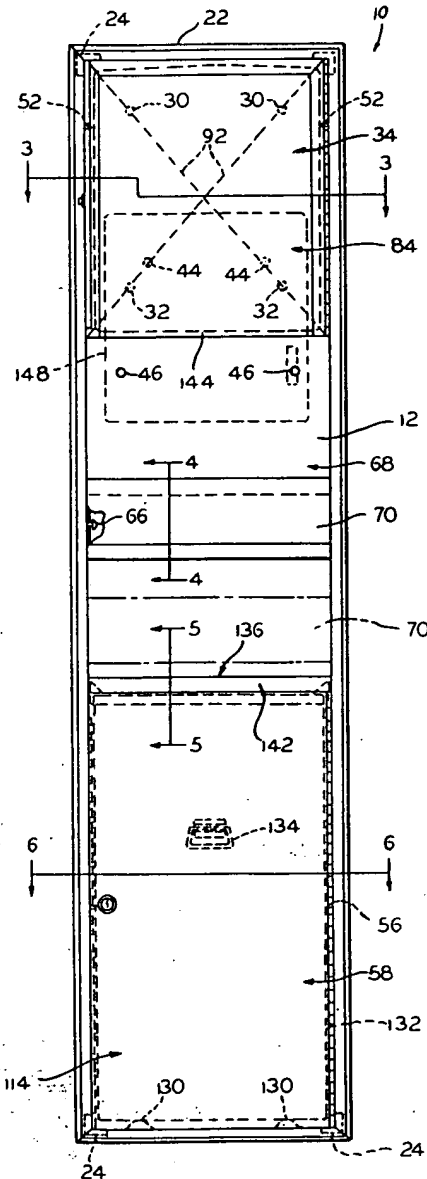


FIG. 1

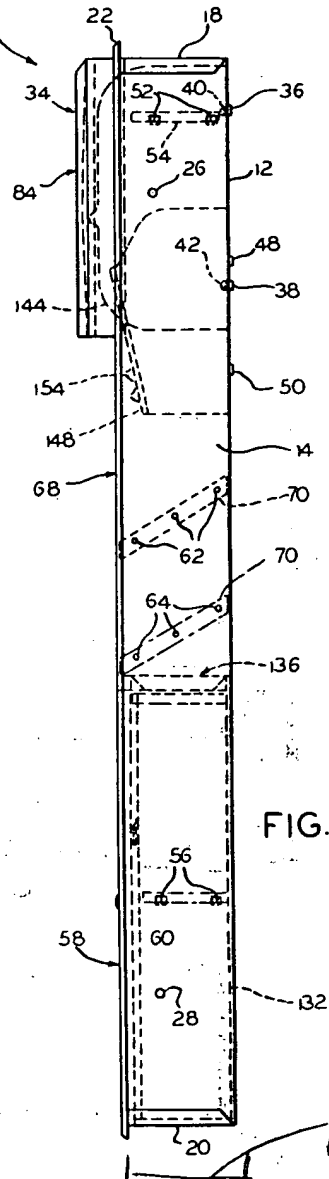


FIG. 2

INVENTORS
 RICHARD T. BIRR
 ERWIN B. BAHNSEN

BY
Manly, Baird, Clayton, Miller & Vogel
 ATTORNEYS